99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-762

RELATING TO THE INDIANA DUNES NATIONAL LAKESHORE, AND FOR OTHER PURPOSES

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4037) relating to the Indiana Dunes National Lakeshore, and for other purposes; having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626–91014" and inserting in lieu thereof "July 1986, and numbered 626–80033".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting: "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria.

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

the term 'appropriate map', means a map identified as 'Boundary Map-Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

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Property within boundaries of map	*Construction began before*
Dated July 1986, #626–80033	February 1, 1986.
Dated December 1980, #626–91014	January 1, 1981.
Dated September 1976, #626–91007	February 1, 1973.
Dated September 1966, #LNPNE–1008–ID	January 4, 1965.

The term 'improved property' also includes the land on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the land as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u–5a) is amended as follows:

(1) Strike out "the first section" and inserting in lieu thereof "section 4, dated December 1980, and numbered 626–91014."

(2) Strike out ": *Provided*, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626–91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991 to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u–9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$25,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,807,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing U.S. Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate within 2 years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u–13) is amended by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980, and numbered 626–91014".

(f) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u–16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated September 1976, and numbered 626–91007".

(g) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated July 1986 and numbered 626–80033 as he determines to be necessary to assure public access to the banks of

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the Little Claumet River and the banks of Salt Creek within 50 feet on either side of the centerline of said river and creek."

(h) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract number 09-117 or on lands under the jurisdiction of the State of Indiana or political subdivisions thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provisions for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate within 2 years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".

PURPOSE

The purpose of H.R. 4037[1] to modify the boundaries of the Indiana Dunes National Lakeshore, make adjustments in the development and land acquisition ceilings and authorize a cooperative agreement and several studies on lands related to the National Lakeshore.

BACKGROUND

The Indiana Dunes National Lakeshore was authorized by Congress in 1966 (P.L. 89-761) and formally established in 1972. The National Lakeshore presently consists of 13,021 acres, having been enlarged through legislation that was passed in 1976 and 1980. The National Lakeshore is approximately 25 miles long and is situated at the extreme southern end of Lake Michigan, in the State of Indiana, 35 miles east of Chicago.

Extensive sand beaches, dunes, marshes, woodlands, and prairie vegetation are found in the National Lakeshore. Because of the park's close proximity to a major population and industrial center, the Lakeshore boundary weaves in, out and around a variety of lands with different uses, primarily residential and industrial. Within the Lakeshore boundary, there is contained the 2,182 acre Indiana Dunes State Park.

SECTION-BY-SECTION ANALYSIS

Section 1(a) as amended, authorizes the inclusion of 8 parcels totaling 863 acres within the boundaries of the Indiana Dunes National Lakeshore.

Section 1(b) and (c) make technical and conforming changes to bring the provisions on land acquired for the National Lakeshore in line with previous legislation enacted into law.

Section 1(d) authorizes an additional $14,000,000 for development and $3,807,000 for land acquisition. The subsection also directs, and authorizes the necessary funding for the Secretary to conduct a feasibility study of establishing U.S. Highway 12 as the "Indiana

[1] H.R. 4037 was introduced by Representative Peter Visclosky, along with Representative Jacobs, Representative Hamilton and Representative McCloskey on January 23, 1986.

Dunes Parkway" under the jurisdiction of the National Park Service. The study is to be completed within 2 years of enactment and copies transmitted to the Committees of jurisdiction.

The Committee is aware that the existing authority for development and land acquisition funds is exhausted. The additional funds authorized will permit the National Park Service to undertake and complete needed development projects especially those in the West Unit of the park, and acquire the remaining land parcels for the National Lakeshore, including those lands authorized by this bill. The Committee expects that any development undertaken will be done in a harmonious manner, in keeping with the purposes for which the National Lakeshore was created.

Section 1(e) and (f) make technical and conforming changes to bring the referenced sections into conformity with their respective boundary maps.

Section 1(g) limits the authority of the Secretary to acquire interests in the rights-of-way designated "Crossing B" and "Crossing C" in the bill to such interests as he determines necessary to assure access to the banks of the Little Calumet River and Salt Creek within a 50 foot corridor from the centerline of the river and creek.

As with Section 10 in the existing Act, the exercise of this authority is not intended to permit the diminishment or interruption, change in ownership or change in operation of any existing electrical or railroad rights-of-way on the above referenced crossings or on Parcel II–I identified on the map in Section 1(a). For those lands added by this legislation which are adjacent to Salt Creek, the Committee hopes the National Park Service will monitor and seek to address any development upon the floodplain which may cause flooding or siltation of lands within the National Lakeshore.

Section 1(h) adds a new Section 24 to the Act and authorizes a cooperative agreement and study in the Little Calumet River and Burns/Portage Waterway areas of the Lakeshore. The Secretary is authorized to enter into a cooperative agreement concerning the development and operation of recreational facilities along the Little Calumet River and Burns/Portage Waterway, to coordinate federal, state and local recreational plans for the areas. This authority is to be limited to technical assistance only. The bill, as amended, further specifies that the use of this authority is applicable to only one parcel within the Lakeshore boundary; that being the parcel designated as tract number 09–0117. The subsection also contains language directing the Secretary to study the options available for linking the East and West Units of the Lakeshore in the Little Calumet River and Burns/Portage Waterway area. The study is to be completed within 2 years and copies transmitted to the Committees of jurisdiction.

The existing pattern of National Lakeshore land ownership complicates the effective use and management of the Lakeshore. The study authorized under this section is meant to help address this problem.

Legislative History and Committee Recommendations

The Subcommittee on National Parks and Recreation held a hearing on H.R. 4037 in Washington, D.C. on June 10, 1986. The

Subcommittee considered the bill on July 17, 1986 and recommended the bill to the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute. The Committee considered H.R. 4037 on July 30, 1986, and ordered the bill, as amended, favorably reported to the House by voice vote.

Oversight Statement

The Committee intends to carefully monitor the implementation of this legislation to assure compliance with the intent of the Act, but no specific oversight hearings have been conducted on this matter. No recommendations were submitted to the Committee pursuant to rule X, clause 2(b)2.

Inflationary Impact Statement

The Committee finds that enactment of this measure would have no inflationary impact on the national economy.

Cost and Budget Act Compliance

The Committee has determined that there will not be a significant increase in the Federal expenditures as a result of enactment of this bill. The report of the Congressional Budget Office, which the Committee adopts as its own, follows:

Congressional Budget Office, Cost Estimate

1. Bill number: H.R. 4037.
2. Bill title: A bill relating to the Indiana Dunes National Lakeshore, and for other purposes.
3. Bill status: As ordered reported by the House Committee on Interior and Insular Affairs on July 30, 1986.
4. Bill purpose: H.R. 4037 would authorize the appropriation of $3.8 million for land acquisition, an additional $14 million for development, and sums necessary to perform two studies involving the Indiana Dunes National Lakeshore. The bill would require the Secretary of the Interior to assess the feasibility of establishing the "Indiana Dunes Parkway" and to identify options for linking portions of the lakeshore that are divided by the Little Calumet River and Burns Waterway. Finally, the Secretary would be authorized to enter into a cooperative planning and management agreement with the Little Calumet River Basin Development Commission of the State of Indiana.
5. Estimated cost to the Federal Government: The estimated costs of acquiring and developing lakeshore lands and performing the required studies are shown in the following table:

	1987	1988	1989	1990	1991
Estimated authorization level	18.0				
Estimated outlays	3.5	5.6	4.3	3.2	1.4

The costs of this bill fall within budget function 300.

Basis of estimate: For the purposes of this estimate, CBO has assumed that the full amounts authorized will be appropriated for

fiscal year 1987. Outlays have been estimated on the basis of historical spending patterns for similar activities and information obtained from the National Park Service. The estimate covers the costs of acquiring and developing lakeshore lands and performing the required studies (which are estimated to cost about $200,000). CBO estimates that the federal government will incur no significant costs if the Secretary enters into a cooperative agreement with the state or any of its political subdivisions.

6. Estimated cost to State and local governments: Based on information from the State of Indiana, we estimate that enactment of this bill would result in no significant costs to state and local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: David Smith and Deb Reis.

10. Estimate approved by: C.G. Nuckols (James L. Blum, Assistant Director for Budget Analysis).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF NOVEMBER 5, 1966

AN ACT To provide for the establishment of the Indina Dunes National Lakeshore, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for the educational, inspirational, and recreational use of the public certain portions of the Indiana dunes and other areas of scenic, scientific, and historic interest and recreational value in the State of Indiana, the Secretary of the Interior is authorized to establish and administer the Indiana Dunes National Lakeshore (hereinafter referred to as the "lakeshore") in accordance with the provisions of this Act. The lakeshore shall comprise the area within the boundaries delineated on a map identified as "Boundary Map, Indiana Dunes National Lakeshore," dated [December 1980, and bearing the number 626-91014,] *July 1986, and numbered 626-80033,* which map is on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

* * * * * * *

SEC. 4(b). [The term "improved property", whenever used in this Act, shall mean a detached, one-family dwelling, construction of which was begun before January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as "Boundary Map, Indiana Dunes National Lakeshore", dated September 1976 and bearing the number 626-91007, before February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as "A Proposed Indiana

Dunes National Lakeshore", dated September 1966, and bearing the number "LNPNE-1008-ID", which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before January 4, 1965, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the lands so designated.] *As used in this Act, the term "improved property" means a detached, one-family dwelling which meets each of the following criteria.*

(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term "appropriate map", means a map identified as "Boundary Map-Indiana Dunes National Lakeshore" (or "A Proposed Indiana Dunes National Lakeshore" in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table:

Property within boundaries of map	*Construction began before*
Dated July 1986, #626-80033	*February 1, 1986*
Dated December 1980, #626-91014	*January 1, 1981*
Dated September 1976, #626-91007	*February 1, 1973*
Dated September 1966, #LNPNE-1008-ID	*January 4, 1965*

The term "improved property" also includes the land on which the dwelling is situated which meets both of the following criteria:

(A) The land is in the same ownership as the dwelling.

(B) The Secretary has designated the land as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Part Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).

The amount of land so designated shall in every case be not more than three areas in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided,* That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use therof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.

SEC. 5(a) [Except for] *(1) Except for owners described in paragraph (2) and* owners of improved property within the area on the map referred to in [the first section] *section 4, dated December 1980, and numbered 626-91014* of Act as area II-B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term [(1)] *(A)* ending on his or here death or the death of his or her spouse, whichever occurs last, or [(2)] *(B)* for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary[: *Provided*, That] . *In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014* the retention of a retained right under clause numbered [(1)]*(A)* shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not late than October 1, 1985, to sell to the Secretary.

* * * * * * *

(2)(A) In the case property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

the owner shall elect the term to be reserved.

(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991 to sell to the Secretary.

* * * * * * *

SEC. 9. The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than [$11,000,000] *$25,000,000* for development: *Provided*, That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 20 of this Act. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this Act, indicating:

(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

(2) the location and estimated costs of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

(3) the projected need for any additional facilities within the national lakeshore; and

(4) specific opportunities for citizen participation in the planning and development of proposed facilities and in the implementation of the general management plan generally.

In addition to any sums heretofore authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act, there are further authorized to be appropriated an additional $3,120,000.

* * * * * * *

In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,807,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing U.S. Highway 12 as the "Indiana Dunes Parkway" under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate within 2 years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.

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SEC. 13. The Secretary may acquire that portion of area I–C which is shaded on the map referred to in [the first section] *section 4, dated December 1980, and numbered 626–91014* of this Act only with the consent of the owner unless the present owner attempts to sell or otherwise dispose of such area.

* * * * * *

SEC. 15. The Secretary may acquire only such interest in the right-of-way designated "Crossing A" on map numbered 626–91007 as he determines to be necessary to assure public access to the banks of the Little Calumet River within fifty feet north and south of the centerline of said river. *The Secretary may acquire only such interest in the rights-of-way designated "Crossing B" and "Crossing C" on the map dated July 1986 and numbered 626–80033 as he determines to be necessary to assure public access to the banks of the Little Calument River and the banks of Salt Creek within 50 feet on either side of the centerline of said river and creek.*

SEC. 16. The Secretary shall enter into a cooperative agreement with the landowner of those lands north of the Little Calument River between the Penn Central Railroad bridge within area II–E and "Crossing A" within area IV–C *on the map referred to in section 4, dated September 1976, and numbered 626–91007.* Such agreement shall provide that any roadway constructed by the landowner south of United States Route 12 within such vicinity shall include grading, landscaping, and plantings of vegetation designed to prevent soil erosion and to minimize the aural and visual impacts of said construction, and of traffic on such roadway, as perceived from the Little Calumet River.

* * * * * *

SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indian Dunes National Lakeshore identified as tract number 09–117 or on lands under the jurisdiction of the State of Indiana or political subdivisions thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provisions for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate within 2 years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.

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